

### REMARKS

Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 4,922,435 to Cahlander et al. ("Cahlander"), in view of U.S. Patent No. 5,630,070 to Dietrich et al. ("Dietrich") and/or what the examiner has characterized as the Applicants admitted prior art, collectively "the cited art." By this amendment, claims 14-22 are amended. Claim 14 is amended for clarity in light of the examiner's remarks. Support for the amendment to claim 14 may be found in the specification and claims as originally filed. Specifically, support for the amendment to claim 14 may be found at col. 2, line 66 - col. 3, line 1. Additionally, claims 15-22 are amended to provide antecedent basis for one or more terms therein. No new matter is added. Therefore, claims 1-22 remain pending and at issue.

Claims 1-13 are identical to claims 1-13 that issued in U.S. Patent No. 6,026,372, this application being a reissue of the '372 patent. Thus, the applicants submit that claims 1-13 remain allowable. Furthermore, independent claim 14 includes at least all of the elements of independent claim 1, plus a second user interface and is directed to a food preparation scheduling system. Thus, the applicants submit that claim 14 and each claim depending therefrom are also allowable. The applicants respectfully request reconsideration and favorable action for claims 1-22.

### Request for Continued Examination (RCE)

This amendment is submitted with a request for continued examination (RCE), the appropriate fee under 37 CFR 1.17(e), a three month extension of time and the appropriate fee under 37 CFR 1.17(a)(3). Thus, the amendments are proper and should be entered.

### 35 U.S.C. § 103(a) Rejections

The applicants respectfully traverse the rejection of claims 1-22 as obvious over Cahlander in view of Dietrich. Each of claims 1-22 recites *inter alia*, initiating cooking instructions in response to desired *quantities* of the selected food items at desired time intervals. The cited art fails to disclose this feature.

The applicants respectfully submit that rates are not the same as quantities. Rates are quantities divided by time. Thus, while producing a particular rate for a

particular time may produce a particular number of items, this is not the same as setting a desired quantity and modifying production to ensure that the desired quantity is met at a particular time. Because the Chalander device operates with rates of production, the device cannot react quickly to deviations from the desired rate. For example, sales must deviate by 20% from the planned rate for a period of 15 minutes before the Cahlander system modifies the rate of production (col. 30, lines 48-51). Fifteen minutes is a very long time in fast food sales. The sales rate can vary considerably from the planned sales rate in fifteen minutes, especially near normal meal times. Conversely, the system disclosed in the instant application, because it manages a set inventory (i.e., a desired quantity at a desired time), reacts instantaneously to each sale. See col. 3, lines 24-37 of the instant application. While the Chalander device may operate well in a relatively stable and predictable sales environment, it does not react quickly to deviations. Thus, Cahlander fails to disclose or suggest initiating cooking instructions in response to desired quantities of the selected food items at desired time intervals, as is recited in each of claims 1-22.

Furthermore, Cahlander teaches away from maintaining a desired quantity of selected food items at a desired time. By basing the cooking directions on a forecast or actual sales rate (col. 4, lines 27-36), the Cahlander device attempts to match the rate of production with the rate of sales. In doing so, Cahlander attempts to eliminate the need for maintaining a specific quantity of items at a desired time and therefore teaches away from such a feature. This feature, maintaining a desired quantity of food items at a desired time, is exactly what the instant application determines and manages. In other words, while the device of the instant application manages a current inventory of products which are ready for sale, the Cahlander device operates to eliminate just such a current inventory.

Likewise, Dietrich also fails to disclose issuing cooking instructions to maintain a desired quantity of food items at a desired time. The Dietrich device optimizes an output parameter (generally revenue or profit). The Dietrich device does not maintain a specific quantity of items on hand at a particular time. In fact, the output quantities of the Dietrich device change with changing production constraints (col. 12, lines 46-53). Furthermore, the quantity of items produced is an output of the Dietrich device while

this same parameter is an input to the device of the instant application. Even if the Dietrich device managed a current inventory of items, there is no motivation to combine Dietrich with Cahlander because Cahlander teaches away from managing a current inventory of items.

Because both Cahlander and Dietrich fail to disclose initiating cooking instructions in response to desired quantities of the selected food items at desired times as is recited by each of claims 1-22, and because there is no motivation to combine Cahlander and Dietrich, none of claims 1-22 can be rendered obvious by any combination thereof. Applicants respectfully request withdrawal of the rejection of claims 1-22.

### CONCLUSION

Enclosed with this response is a petition for a three month extension of time, a Request for Continued Examination (RCE) and a check in the amount of \$1810.00. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855 of Marshall, Gerstein & Borun LLP. A copy of this paper is enclosed herewith. The examiner is invited to contact the undersigned attorney at the telephone number listed below in order to discuss any remaining issues or matters of form that will place this case in condition for allowance.

Respectfully submitted,



Anthony G. Sitko  
Reg. No. 36,278  
MARSHALL, GERSTEIN & BORUN  
233 S. Wacker Dr.  
6300 Sears Tower  
Chicago, Illinois 60606  
(312) 474-6300

September 28, 2005